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6 UNITED STATES DISTRICT COURT

7 DISTRICT OF NEVADA

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9 GEORGE L. VONTRESS,

10 Plaintiff,

11 v.

12 JO GENTRY, *et al.*,

13 Defendants.
14

Case No. 2:17-cv-01791-RFB-NJK

ORDER

15 Before the Court are Plaintiff's Motion for Preliminary Injunction / Temporary Restraining
16 Order (ECF Nos. 17, 18) and Motion Requesting Copies (ECF No. 19). For the reasons stated
17 below, the Court denies both motions.

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19 **I. PROCEDURAL BACKGROUND**

20 Plaintiff filed the complaint on June 28, 2017. ECF No. 1. On September 16, 2018, the
21 Court screened Plaintiff's complaint, dismissed all but one claim, and provided Plaintiff an
22 opportunity to cure several deficiencies. ECF No. 8.

23 In a hearing held on November 19, 2018 regarding another case brought by Plaintiff
24 currently before this Court, Case Number 2:18-cv-01746, the Court found that Plaintiff was being
25 deprived of legal records and ordered restoration of his legal materials by December 10, 2018.
26 ECF No. 21.

27 Plaintiff filed the instant motion on November 21, 2018. ECF Nos. 17, 18, 19. Plaintiff
28 simultaneously filed an Amended Complaint, ECF No. 20, which this Court has not yet screened.

II. FACTS ALLEGED

The Court summarizes the facts alleged in Plaintiff's Motion for Preliminary Injunction / Temporary Restraining Order. Plaintiff is an inmate in the custody of the Nevada Department of Corrections being held at the Saguaro Correctional Center in Eloy, Arizona. Plaintiff is currently pursuing two lawsuits pending before this Court. Plaintiff's legal records are being stored in a facility warehouse, where he cannot access them. Facility staff are denying Plaintiff access to the facility law library, prohibiting Plaintiff from obtaining assistance with legal matters from other inmates, and neglecting to provide anyone trained in law to assist Plaintiff with his legal matters. Plaintiff requests (1) the return of his legal files, (2) access to the general population law library for ten hours per week, and (3) permission to be accompanied to the law library by a specific inmate named in the motion.

III. LEGAL STANDARD

The analysis for a temporary restraining order is "substantially identical" to that of a preliminary injunction. Stuhlbarg Intern. Sales Co, Inc. v. John D. Brush & Co., Inc., 240 F.3d 832, 839 n.7 (9th Cir. 2001). A preliminary injunction is "an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief." Winter v. Natural Res. Def. Council, Inc., 555 U.S. 7, 22 (2008). To obtain a preliminary injunction, a plaintiff must establish four elements: "(1) a likelihood of success on the merits, (2) that the plaintiff will likely suffer irreparable harm in the absence of preliminary relief, (3) that the balance of equities tips in its favor, and (4) that the public interest favors an injunction." Wells Fargo & Co. v. ABD Ins. & Fin. Servs., Inc., 758 F.3d 1069, 1071 (9th Cir. 2014), as amended (Mar. 11, 2014) (citing Winter, 555 U.S. 7, 20 (2008)). A preliminary injunction may also issue under the "serious questions" test. Alliance for the Wild Rockies v. Cottrell, 632 F.3d 1127, 1134 (9th Cir. 2011) (affirming the continued viability of this doctrine post-Winter). According to this test, a plaintiff can obtain a preliminary injunction by demonstrating "that serious questions going to the merits were raised and the balance of hardships tips sharply in the plaintiff's favor," in addition to the other Winter elements. Id. at 1134-35 (citation omitted).

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